

December 15, 2010

UNITED STATES COURT OF APPEALS  
FOR THE TENTH CIRCUITElisabeth A. Shumaker  
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

LEOVARDO YANEZ-DOMINGUEZ,

Defendant - Appellant.

Nos. 10-2245 and 10-2246  
(D.C. Nos. 2:10-CR-00864-JCH-1  
and 1:08-CR-02742-JCH-1)

## ORDER

Before **O'BRIEN**, **TYMKOVICH**, and **GORSUCH**, Circuit Judges.

In *No. 10-2245*, Defendant Leovardo Yanez-Dominguez appeals the judgment entered by the district court on July 19, 2010 in criminal case No. 1:10-CR-00864-JCH-1. Under Fed. R. App. P. 4(b)(1)(A)(i), the fourteen-day deadline for filing a notice of appeal in this criminal case expired on August 2, 2010. Defendant filed a notice of appeal on November 10, 2010, which was approximately three months after the fourteen-day deadline.

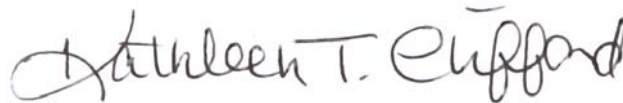
In *No. 10-2246*, Defendant appeals the judgment revoking his supervised release entered by the district court on July 19, 2010 in criminal case No. 1:08-CR-02742-JCH-1. Under Rule 4(b)(1)(A)(i), the fourteen-day deadline for filing a notice of appeal in this

criminal case expired on August 2, 2010. Defendant filed a notice of appeal on November 10, 2010, which was approximately three months after the fourteen-day deadline.

Although non-compliance with the time limit in Rule 4(b)(1)(A) is not considered jurisdictional, the United States has properly raised the timeliness issue by filing a motion requesting dismissal of these appeals. “[T]he time bar in Rule 4(b) must be enforced by this court when properly invoked by the government.” *United States v. Mitchell*, 518 F.3d 740, 744 (10th Cir. 2008) (quoting *United States v. Garduno*, 506 F.3d 1287, 1290-91 (10th Cir.2007)).

Accordingly, the United States’s motion to dismiss is **GRANTED**. The appeals are **DISMISSED**. The motion to withdraw is **GRANTED**. The request for appointment of new counsel is **DENIED**.

Entered for the Court,  
Elisabeth A. Shumaker, Clerk

A handwritten signature in dark ink, appearing to read "Kathleen T. Clifford". The signature is fluid and cursive, with the first name "Kathleen" being more prominent than the last name "Clifford".

Kathleen T. Clifford  
Attorney - Deputy Clerk